

This checklist was developed for use by examiners as part of policy and forms review

Checklist for Group Whole Life Variable Insurance Products

Insurer _____

NAIC# _____

Name of Product _____

Contact Person, Title _____

Address _____

Telephone _____ Fax _____

Date received _____ Reviewed by _____

SRB # _____

Notes:

Contents of Actuarial Memorandum

- ___ Each submission must be accompanied by an actuarial memorandum prepared and signed by an actuary that includes the following:
 - ___ A description of the product;
 - ___ The mathematical formulas, sample numerical calculations and a detailed statement of the method used to compute policy or contract values and reserves and insurance nonforfeiture benefits;
 - ___ A statement that each form's nonforfeiture values are not less than those required by Massachusetts law OR
 - ___ A statement that no nonforfeiture values are required by Massachusetts law, and a detailed demonstration on how net premiums and/or values meet the exclusionary requirement of M.G.L. c. 175, § 144. *SRB Bulletin 90-02*
 - ___ Identification of risk classes covered under the policy and how rates and values are affected. *SRB Bulletin 90-02*
- ___ Any additional data, tables, and information necessary for a comprehensive review of the forms. *SRB Bulletin 90-02*

The Division will consider the requirements of M.G.L. c. 175, § 132G to be met if the standards set forth in 211 CMR 95.00 are met for the actuarial memorandum for group products.

- ___ The actuarial memorandum, prepared and certified by a qualified actuary, must contain a description of the company's methodology(ies) used to determine reserve liabilities for any guaranteed death benefits and other contingencies, including the mortality, expenses and other risks which the insurer will bear under the policy. *211 CMR 95.06(2)*
- ___ Assets in any separate account must be valued at their market value at the date as of which valued in accordance with the terms of the applicable contracts, or if there is no readily available market, then in accordance with the terms of such contracts. The life company's reserve liability for contracts on a variable basis must be in accordance with actuarial procedures which recognize the variable nature of the benefits, payments or values to be provided. *M.G.L. c. 175, § 132G, see also 211 CMR 95.10(1)*: Reserve liabilities for variable life insurance policies shall be established in accordance with the provisions of M.G.L. c. 175, §§ 9, 132F and 132G and in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees, including the cost of insurance charges guaranteed under the contract.

All of the following are from 211 CMR 95.10(2):

- ___ Reserve liabilities for any guaranteed minimum death benefit shall be the reserve needed to provide for the contingency of death occurring when the guaranteed minimum death benefit exceeds the death benefit that would be paid in the absence of the guarantee, and shall be maintained in the general account of the insurer and shall be not less than the greater of the following minimum reserves:
 - ___ (a) the aggregate total of the term costs, if any, covering a period of one full year from the valuation date, or, if less, covering the period provided for in the guarantee not otherwise provided for by the reserves held in the separate account, on each variable life insurance

contract, assuming an immediate one-third depreciation in the current value of the assets of the separate account followed by a net investment return equal to the assumed investment rate; or

- ___ (b) the aggregate total of the "attained age level" reserves on each variable life insurance contract. The "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall equal the "residue" as described in 211 CMR 95.10(2)(b)1., of the prior year's "attained age level" reserve on the contract, with any such "residue" increased or decreased by a payment computed on an attained age basis as described in 211 CMR 95.10(2)(b)2.:
 - ___ 1. the "residue" of the prior year's "attained age level" reserve on each variable life insurance contract shall not be less than zero and shall be determined by adding interest at the valuation interest rate to such prior year's reserve, deducting the tabular claims based on the "excess," if any, of the guaranteed minimum death benefit over the death benefit that would be payable in the absence of such guarantee, and dividing the net result by the tabular probability of survival. The "excess" referred to in the preceding sentence shall be based on the actual level of death benefits that would have been in effect during the preceding year in the absence of the guarantee, taking appropriate account of the reserve assumptions regarding the distribution of death claim payments over the year;
 - ___ 2. the payment referred to in 211 CMR 95.10(2)(b) shall be computed so that the present value of a level payment of that amount each year over the future period for which charges for this risk will be collected under the contract is equal to (A) minus (B) minus (C), where (A) is the present value of the future guaranteed minimum death benefits, (B) is the present value of the future death benefits that would be payable in the absence of such guarantee, and (C) is any "residue," as described in 211 CMR 95.10(2)(b)1., of the prior year's "attained age level" reserve on such variable life insurance contract. If no future charges for this risk will be collected under the contract, the payment shall equal (A) minus (B) minus (C). The amounts of future death benefits referred to in (B) shall be computed assuming a net investment return of the separate account which may differ from the assumed investment rate and/or the valuation interest rate but in no event may exceed the maximum interest rate permitted for the valuation of life insurance contracts;
- ___ (c) the valuation interest rate and mortality table used in computing the minimum reserves described in 211 CMR 95.10(2)(a) and 95.10(2)(b) shall conform to permissible standards for the valuation of life insurance contracts. In determining such minimum reserve, the company may employ suitable approximations and estimates, including but not limited to groupings and averages. *211 CMR 95.10(2) with appropriate subsections*
- ___ Reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with variable incidental insurance benefits shall be maintained in the general account, and reserve liabilities for all variable aspects of the variable incidental insurance benefits shall be maintained in a separate account, in amounts determined in accordance with the actuarial procedures appropriate to such benefit. Reserve liabilities shall be at least equal to the cash surrender value. *211 CMR 95.10(3)*

___ Is this a scheduled premium policy?

___ yes ___ no

If yes, a minimum death benefit must be provided in an amount at least equal to the initial face amount of the policy so long as premiums are duly paid and subject to all other policy provision requirements of 211 CMR 95.00. Other minimum death benefit patterns are permitted so long as it is proved that they are actuarially equivalent to that specified in the preceding sentence. *211 CMR 95.07(3)*

Definition of a group

In order to be a group life policy, the group must meet one of the following definitions: (*Note: the citation for all of the following section describing eligible groups is M.G.L. c. 175, § 133*)

- ☐ (a) an employer group that meets the following criteria:
 - ☐ not less than ten employees at date of issue,
 - ☐ with or without medical examination,
 - ☐ written under a policy issued to the employer, or to the trustees of a fund established by the employer,
 - ☐ the premium on which is to be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees,
 - ☐ insuring only all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment, or by duration of service in which case no employee can be excluded if he has been employed for one year or more, or for such period longer than one year as may be required by any pension plan under or in connection with which the policy is taken out,
 - ☐ for amounts of insurance based upon some plan precluding individual selection,
 - ☐ for the benefit of persons other than the employer,
- ☐ when part of the premium is to be derived from funds contributed by the insured employees and the benefits of the policy are offered to all eligible employees, not less than seventy-five percent of such employees may be so insured, or not less than forty percent if each employee belonging to the insured group has been medically examined and found acceptable for ordinary insurance by an individual policy;
 - ☐ *Note: The word "employees" may include the officers, managers and employees of subsidiary or affiliated corporations and the individual proprietors, partners and employees of affiliated individuals and firms, if the business of the employer and of such subsidiary or affiliated corporations, firms or individuals is under common control, through stock ownership, contract or otherwise. M.G.L. c. 175, § 134*

OR

- ☐ (b) the members of any trade union or other association of wage workers described in section 29 ("whose principal objects are to deal with the relations between employers and employees relative to wages, hours of labor and other conditions of employment"), that meet the following criteria:
 - ☐ with or without medical examination,
 - ☐ written under a policy issued to the union or association,
 - ☐ the premium on which is to be paid by the union or association or jointly by the union or association and the members,
 - ☐ insuring all of the members of the union or association, or all of any class or classes determined by conditions pertaining to their employment, or to membership in the union or association, or to both,
 - ☐ for amounts of insurance based upon some plan which will preclude individual selection,
 - ☐ for the benefit of persons other than the union or association or any officers thereof,

- ___ when the premium is to be paid by the union or association and its members jointly and the benefits of the policy are offered to all eligible members, not less than seventy-five percent of such members may be so insured,
- ___ any member or members insured under the policy may apply for amounts of insurance additional to those granted by said policy, in which case any percentage of the members may be insured for additional amounts if they pass satisfactory medical examinations

OR

- ___ (c) a group of persons who at any time are debtors of a bank, association, financial or other institution, including its subsidiary or affiliated institutions, if any, for a loan, or of the vendor of any property for its purchase price, or who are co-debtors or guarantors of said obligation, under an agreement to pay said obligation, or who at any time have been granted a policy loan pursuant to a policy provision therefor, that meet the following criteria
- ___ written under a policy issued, with or without requirement of evidence of individual insurability, to said bank, association, financial or other institution or vendor, or to a parent holding company, or to the trustee, trustees or agent designated by one or more said banks, associations, financial or other institutions or vendors, or to the insurance company granting said policy loan,
- ___ made payable to said creditor or to the assignee of said obligation, or to said insurance company granting said policy loan, including the insurance company which issues said policy,
- ___ insuring the life of each debtor, co-debtor, guarantor or the person granted said policy loan,
- ___ for an amount, with respect to each said obligation or policy loan, not exceeding his individual obligation exclusive of unearned finance charges, or policy loan with interest, and not exceeding \$125,000;
- ___ where joint life insurance is afforded, not more than two persons may be insured in connection with any one credit transaction;
- ___ no such debtor may be insured in such a group for a period of more than fifteen years on account of a debt arising out of said loan or policy loan or obligation for said purchase price,
- ___ the \$125,000 amount limitation and fifteen year period limitation contained in this clause does not apply to insurance for which no identifiable charge is made to the debtor, co-debtor or guarantor;

But note that insurance or educational credit transaction commitments may be written under the above for the amount of such commitment that has not been advanced by the creditor; provided, that the amount of such insurance shall not exceed ten thousand dollars with respect to each student.

OR

- ___ (d) the members of any association of state, county or municipal employees, who are regularly and permanently employed by the commonwealth, a county or a municipality and, if employed by the commonwealth or the city of Boston, are paid by a common paymaster (any officer or employee of the commonwealth or the city of Boston or any board, department, or commission, whose duties include the payment of salaries or wages to employees of the commonwealth, city or any board, department or commission) and are eligible for membership in the retirement association for the

employees of the commonwealth or of the city of Boston, or the members of any association of employees of two or more municipalities within one county who are regularly and permanently employed by one or more such municipalities, that meet the following criteria:

- ___ with or without medical examinations,
- ___ written under a policy issued to the association, the premium on which is to be paid by its members,
- ___ insuring not less than fifty members at date of issue and seventy-five percent of all persons eligible for membership therein,
- ___ for amounts of insurance based upon some plan which will preclude individual selection,
- ___ for the benefit of persons other than the association or any officers thereof,
- ___ any member or members insured under such policy may apply for amounts of insurance additional to those granted by said policy, in which case any percentage of the members may be insured for additional amounts if they pass satisfactory medical examinations;
- ___ no person may be eligible for coverage under such a policy as a member of more than one such association.

OR

- ___ (e) all the employees of two or more employers in the same industry, or the members of one or more trade unions or associations of wage workers described in section twenty-nine, (“whose principal objects are to deal with the relations between employers and employees relative to wages, hours of labor and other conditions of employment”) or the employees of one or more employers in the same industry and the members of one or more such trade unions or such associations, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union or unions or association or associations, or to both, that meet the following criteria:
 - ___ with or without medical examination,
 - ___ written under a policy issued to the trustees of a fund established by two or more employers in the same industry or by one or more such trade unions or such associations, or by one or more employers and one or more such trade unions or associations, which trustees shall be deemed to be the policyholder,
 - ___ the premium on which is to be paid by the trustees, either wholly from funds contributed by the employer or employers of the insured persons, or by the union or association or unions or associations, or by both, or partly from such funds contributed by the employer or employers of the insured persons, or by the union or association or unions or associations, or by both, and partly from such funds contributed by the insured persons specifically for their insurance, or, with respect to a policy issued to the trustees of a fund established by one or more employers and one or more such trade unions or associations, partly from such funds contributed by the employers, unions or associations, or both, and partly from funds contributed by the insured persons specifically for their insurance,
 - ___ for amounts of insurance based upon some plan precluding individual selection either by the insured persons or by the policyholder, or employers, or union or unions or association or associations,
 - ___ for the benefit of persons other than the employer or employers, or the union or unions or association or associations or any officers thereof,
 - ___ when part of the premium is to be contributed by the insured persons specifically for their insurance and the benefits of the policy are offered to all eligible persons, not less than

seventy-five percent of such eligible employees of the employer or employers or of such eligible members of the union or unions or association or associations, who remit funds for premium payments to the trustees may be so insured;

___ the policy must, at date of its issue, cover at least one hundred persons;

OR

___ (f) the members in good standing, or all of any class or classes thereof determined by conditions pertaining to membership, of any charitable or religious association which meets the requirements of chapter one hundred and eighty and which has been in existence for at least one year and not formed for the exclusive purpose of procuring insurance, that meet the following criteria

___ written under a policy issued to the association,

___ the premium on which is to be paid by the association or the insured members, or by both jointly,

___ for amounts of insurance based upon some plan precluding individual selection,

___ for the benefit of the association or of persons named by the insured members for the purpose of carrying out the duly stated objectives of the association;

___ when part of the premium is to be contributed by the insured persons specifically for their insurance and the benefits of the policy are offered to all eligible persons, not less than seventy-five percent of such eligible members may be so insured;

___ the policy must, at date of its issue, cover at least one hundred persons.

Note:

___ Any group life insurance policy issued under the provisions of this section, except a policy insuring the lives of debtors in accordance with clause (c) may also insure the dependents of employees or members or other persons insured thereunder, and the employees or members or other persons may contribute part or all of the premium for such insurance.

___ Any policy issued to any of the above groups may provide that the term "employee" shall include retired employees, and the partners or individual proprietors if an employer is a partnership or an individual proprietor, if such partners or proprietors are actively engaged in and devote a substantial part of their time to the conduct of the business of the proprietor or partnership, and if, in the case of a policy issued under subdivision (e) of section one hundred and thirty-three, the policy insures not less than an average of five persons, other than the partners or individual proprietors, per employer unit; provided, however, that so much of this paragraph as provides that a policy issued under said subdivision (e) of said section one hundred and thirty-three insure not less than an average of five persons, exclusive of partners or individual proprietors, per employer unit shall not be applicable in the case of any policy so issued covering employees of persons engaged in the business of conducting recreational or instructional summer camps for children. *M.G.L. c. 175, § 134*

Note regarding definitions:

___ The word "employer" shall include the trustees of a fund established as provided in clause (a) of section one hundred and thirty-three, a trade union or association of wage workers, a financial or other institution including subsidiary or affiliated institutions, a vendor of any property, as assignee of the indebtedness, an association of state, county or municipal employees, and the trustees of a fund established as provided in clause (e) of section one

hundred and thirty-three, in the case of a policy issued under clause (a), (b), (c), (d) or (e), respectively, of section one hundred and thirty-three, and a charitable or religious association which meets the requirements of chapter one hundred and eighty. *M.G.L. c. 175, § 134*

- The word "employee," shall include a member of such a trade union or other association of wage workers or of such an association of state, county or municipal employees or of a charitable or religious association which meets the requirements of chapter one hundred and eighty, and, as used in this section, shall include a borrower from such a financial or other institution including subsidiary or affiliated institutions, and a purchaser from such a vendor. *M.G.L. c. 175, § 134*

Cover Page

The cover page must contain:

- ___ a prominent statement, in either contrasting color or in boldface type, that the premium is flexible or fixed and that the amount or duration of the death benefit may be variable or fixed under specified conditions and may increase or decrease. *M.G.L. c. 175, § 132G; 211 CMR 95.08(1)(a)*
- ___ for scheduled premium policies, a prominent statement, in either contrasting color or in boldface type, that a premium at a guaranteed rate is necessary to sustain the policy in force to policy maturity. *211 CMR 95.08(1)(b)*
- ___ a prominent statement, in either contrasting color or in boldface type, that cash values may increase or decrease in accordance with the experience of the separate account subject to any specified minimum guarantees. *211 CMR 95.08(1)(c)*
- ___ a statement describing any minimum death benefit required pursuant to 211 CMR 95.07(3) or provided in the policy. *211 CMR 95.08(1)(d)*
- ___ for flexible premium policies which do not have a guaranteed death benefit until the maturity date of the policy, a prominent statement, in either contrasting color or in boldface type, explaining that the applicant could lose his or her entire investment, depending on the performance of the fund, and that as a result there could be no death benefit absent additional payments made to keep the policy in force. *211 CMR 95.08(1)(e)*
- ___ the method for determining the amount of insurance payable at death, or a reference to the policy provision which describes the method. *211 CMR 95.08(1)(f)*
- ___ a captioned provision which provides that the policyholder may return the variable life insurance policy to the insurer or agent thereof or to the broker from whom it was purchased within ten days of receipt of the policy and receive a refund of all premium payments for such policy. *211 CMR 95.08(1)(g)*
- ___ such other items as are currently required for general account life insurance policies and which are not inconsistent with 211 CMR 95.00. *211 CMR 95.08(1)(h)*

Definitions

Definitions used in the policy must be substantially similar to the following from 211 CMR 95.01:

- ___ Affiliate: any person directly or indirectly, controlling, controlled by, or under common control with such insurer; any person who regularly furnishes investment advice to such insurer with respect to its separate accounts for which a specific fee or commission is charged; or any director, officer, partner, or employee of any such insurer, controlling or controlled person, or person providing investment advice or any member of the immediate family of such person.
- ___ Agent: any person, corporation, partnership, or other legal entity which is licensed by the Commonwealth as a life insurance agent.
- ___ Assumed investment rate: the rate of investment return which would be required to be credited to a variable life insurance policy, after deduction of charges for taxes, investment expenses and mortality and expense guarantees, to maintain the variable death benefit equal at all times to the amount of death benefit, other than incidental insurance benefits, which would be payable under the plan of insurance if the death benefit did not vary according to the investment experience of the separate account.
- ___ Benefit base: the amount specified by the terms of the variable life insurance policy to which the net investment return is applied.
- ___ Broker: any person, corporation, partnership, or other legal entity which is licensed by the Commonwealth as a life insurance broker.
- ___ Cash surrender value: the cash value less any policy-defined surrender charge.
- ___ Cash value: the amount, specified by the terms of the variable life insurance policy, to which separately identified mortality, expense, or other charges are made.
- ___ Commissioner: the Commissioner of Insurance or his or her designee.
- ___ Control: the possession, direct or indirect, of the power to direct the management and policies of a person, whether through the ownership of voting stock, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of official position or positions with, or corporate office or offices held by, the person or persons. Control shall be presumed to exist if any person directly or indirectly owns, controls, holds with the present power to vote, or holds proxies representing more than 10% of the voting stock of any other person. Such presumption may be rebutted by a showing made to the satisfaction of the Commissioner that control does not exist in fact. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.
- ___ Division: the Division of Insurance.
- ___ Flexible premium policy: any variable life insurance policy other than a scheduled premium policy.
- ___ General account: all assets of the insurer, other than assets in separate accounts established pursuant to M.G.L. c. 175, §§ 132F or 132G, or pursuant to the corresponding section of the insurance law of the state of domicile of a foreign or alien insurer, whether or not for variable life insurance.
- ___ General account life insurance policy: any life insurance policy other than a variable life insurance policy.

- ___ Incidental insurance benefit: an insurance benefit in a variable life insurance policy, other than the variable death benefit and the minimum death benefit, and includes but is not limited to accidental death and dismemberment benefits, disability benefits, guaranteed insurability options, family income, or term riders.
- ___ Minimum death benefit: the amount of the guaranteed death benefit, other than incidental insurance benefits, payable under a variable life insurance policy regardless of the investment performance of the separate account.
- ___ Net cash surrender value: the cash surrender value less any amounts outstanding as policy loans and loan interest.
- ___ Net investment return: the rate of investment return to be applied to the benefit base.
- ___ Person: an individual, a corporation, a partnership, an association, a trust, a joint stock company, a fund, an unincorporated organization, or any similar entity or combination of the foregoing acting in concert.
- ___ Policy processing day: the day on which charges authorized in the policy are deducted from the cash value.
- ___ Scheduled premium policy: any variable life insurance policy under which both the amount and timing of premium payments are fixed by the insurer.
- ___ Separate account: an account established pursuant to M.G.L. c. 175, §§ 132F or 132G, or pursuant to the corresponding section of the insurance law of the state of domicile of a foreign or alien insurer.
- ___ Variable death benefit: the amount of death benefit, other than incidental insurance benefits, payable under a variable life insurance policy, dependent on the investment performance of the separate account which the insurer would have to pay instead of any minimum death benefit.
- ___ Variable life insurance policy: any individual policy which provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer with respect to such policy, pursuant to M.G.L. c. 175, §§ 132F or 132G, or pursuant to the corresponding section of the insurance law of the state of domicile of a foreign or alien insurer.

General Requirements

- ___ Each submission must include a certification by a company official that each form meets the objective standards of M.G.L. c. 175 §2B. If an insurer feels that a form is exempt from chapter 175 §2B, the basis for the contention must be stated in the cover letter. The term "text" includes all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, captions and subcaptions, and schedule pages and tables. *M.G.L. c. 175 §2B*
 - ___ The text achieves a minimum Flesch score of 50. The Flesch score for each form must be stated in the certification: a statement to the effect that the score exceeds 50 is not permitted.
 - ___ The other objective standards of Chapter 175 §2B, section 1 are met:
 - ___ It is printed, except for tables, in not less than ten point type, one point leaded.
 - ___ The style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text of the policy and any endorsements or riders;
 - ___ It contains a table of contents or an alphabetical subject index;
 - ___ The width of margins and ink to paper contrast do not unreasonably interfere with the readability of the form; and
 - ___ The organization of the content of the policy and the summary of the policy is conducive to understandability of the form.
- Note: All provisions of law relative to the filing of policy forms shall also apply to all applications designed to be attached to such policy forms and when so attached to constitute a part of the contract. *M.G.L. c. 175 § 192***
- Note: Section 2B does not apply to policies which are issued in connection with any employee benefit plan which is either subject to Title I of the Employee Retirement Income Security Act of 1974, 29 United States Code, sections 1002 to 1144, inclusive, or described in 26 United States Code, sections 79, 105, 125, 401, 403(a) or 409A of the Internal Revenue Code.**
- ___ All policies must be headed by the corporate name of the company. If two or more insurers are under a common management and represent themselves to be or are customarily known as an insurance company group or similar insurance trade designation, they may, with the approval of the commissioner, head or title policies with the name of the group or similar trade designation or with the names of the individual members of the group, provided that the company assuming the insurance is specifically identified. *M.G.L. c. 175, §18*
- ___ All policies must be signed by the company's secretary or an assistant secretary, or in their absence by a temporary secretary, and by its president or a vice-president, or in their absence by two directors. Riders or endorsements may be signed by one of the aforesaid officers of the company. (**Note: does not apply to riders or endorsements providing special benefits under M.G.L. c. 175, § 24.**) A facsimile of the required signature is acceptable. *M.G.L. c. 175, §33*

___ Policy of life insurance must contain on the first page in bold letters a plain description of the policy, “so fully defining its character, including dividend periods and other peculiarities, that the holder thereof shall not be likely to mistake the nature or scope of the contract.” *M.G.L. c. 175, §129*

___ The commissioner may require a company to submit for her inspection copies of any policy form used by the company, which includes any rider, endorsement or application used with the policy, and copies of any circular or other advertising matter used in the commonwealth. *M.G.L. c. 175, §191*

___ There must be a “free look” period of at least 10 days. *M.G.L. c. 175, §187H, M.G.L. c. 176D; cite for a variable policy is 211 CMR 95.08*

___ Any policy that contains a reference to the application, either as a part of the policy or as having any bearing thereon, must include the application for review, for the application is a part of the policy. *M.G.L. c. 175, §§ 131 and 192*

Is this a flexible premium universal life product?

___ yes ___ no

If yes,

___ The Division would consider a carrier to be in compliance with M.G.L. c. 176D if the term "planned premium" is used to describe the concept of flexible premiums. The use of the terms "required premium" or "expected premium" or "scheduled premium" will be considered a violation of M.G.L. c. 176D.

___ The Schedule Page must display the date of maturity that results if the policyholder pays the planned premium and if the following are all assumed: minimum interest rate, the maximum cost of insurance rates, and the maximum expenses. *M.G.L. c. 176D*

Compliance with M.G.L. c. 175, § 118:

___ Must state the amount of benefits payable, the manner of payment and the consideration;

___ Benefits cannot be contingent upon assessments upon survivors

Note: extra compensation may be charged by a company to the insured for engaging in naval or military service in time of war.

Note: for variable policies, compliance with 211 CMR 95.08(1) or 132G (“Any contract on a variable basis delivered or issued for delivery in this commonwealth shall contain a statement of the essential features of the procedure to be followed by the life company in determining the amount of variable benefits, payments or values thereunder. Any such contract, including a group contract and any certificate issued thereunder, shall state that the amount of variable benefits, payments or values thereunder may decrease or increase according to such procedure, and shall contain on its first page, in a prominent position, a statement that the benefits, payments or values thereunder are on a variable basis”) will meet the requirements of this section.

A variable policy must comply with M.G.L. c. 175, § 132G: *unless otherwise specified, all of the following provisions should be cited as "M.G.L. c. 175, § 132G."*

Any life company may issue policies on a variable basis and, in connection with such policies, may establish one or more separate investment accounts, hereinafter called "separate accounts," independent of its general investment account.

This applies to both group and individual policies, and any supplementary agreements, issued by a life company providing for the amount of benefits or other contractual payments or values thereunder to vary, in whole or in part, so as to reflect the investment results of a separate investment account or accounts established under this section in which amounts received in connection with any such contract have been placed or, with the approval of the commissioner, to vary, in whole or in part, on some other basis fixed by the contract.

- ___ The carrier must be licensed to offer variable life products.
- ___ All amounts received by the life company which are required by a contract on a variable basis to be applied to provide variable benefits, payments or values thereunder must be placed in the appropriate separate account or accounts, and, if and to the extent so provided under the applicable contracts, that portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the life company may conduct.
- ___ The income, if any, and gains or losses, realized or unrealized, on each such separate account must be credited to or charged against the amounts placed in such account without regard to the other income, gains or losses of the company.
- ___ Amounts payable to the life company under any contract on a variable basis may, with the consent of the life company, be paid by transferring investments to the life company.
- ___ Except as otherwise provided in clause (i) of the following paragraph, assets in any separate account must be valued at their market value at the date as of which valued in accordance with the terms of the applicable contracts, or if there is no readily available market, then in accordance with the terms of such contracts.
- ___ The life company's reserve liability for contracts on a variable basis shall be in accordance with actuarial procedures which recognize the variable nature of the benefits, payments or values to be provided.
- ___ A contract on a variable basis may provide for benefits payable in fixed amounts and for values or funds guaranteed as to principal amount or stated rate of interest; provided, that to the extent, that the life company's reserve liability with respect to guaranteed benefits, values or funds is maintained in any separate account, either (i) a portion of the assets of such separate account at least equal to such reserve liability shall be invested in accordance with the requirements applicable to the life company's general investment account; provided, however, that such guaranteed separate account need not comply with the requirement of paragraph 14A of section 63 to the effect that not more than one-half of the reserve of any domestic stock or mutual life company shall be invested in corporate obligations authorized under said paragraph 14A, and shall be valued and computed as provided in section 25 or (ii) the insurer shall annually prepare an actuarial opinion that, after taking into account any risk charge payable from the assets of such separate account with respect to such guarantee, the assets in such separate account make good and sufficient provision for the fixed and

guaranteed obligations of the insurer under such contract, and such opinion shall be accompanied by a memorandum of the actuary providing the opinion describing the calculations made in support of such opinion and the assumptions used in the calculations. Such actuarial opinion and accompanying memorandum shall be maintained in the insurer's home office and be available for examination.

- ___ Any contract on a variable basis delivered or issued for delivery in this commonwealth must contain a statement of the essential features of the procedure to be followed by the life company in determining the amount of variable benefits, payments or values thereunder.

Note: The Division will consider this provision satisfied if the group product meets the relevant criteria established by 211 CMR 95.00.

- ___ Any such contract, including a group contract and any certificate issued thereunder, must state that the amount of variable benefits, payments or values thereunder may decrease or increase according to such procedure, and must contain on its first page, in a prominent position, a statement that the benefits, payments or values thereunder are on a variable basis.
- ___ For group products, the certificate and application must be filed.

Note: although the following requirements are found in 211 CMR 95.00, which applies to individual variable life products, the same requirements apply to group products by implication. See note above.

- ___ The insurer issuing variable life insurance must establish one or more separate accounts pursuant to M.G.L. c. 175, §§ 132F or 132G or pursuant to the corresponding section of the insurance law of the state of domicile of a foreign or alien insurer. 211 CMR 95.03
- ___ The insurer must be authorized to issue variable life insurance products. 211 CMR 95.02
- ___ Each filing for approval of a variable life insurance policy form must include an actuarial memorandum, prepared and certified by a qualified actuary which contains a description of the company's methodology(ies) used to determine reserve liabilities for any guaranteed death benefits and other contingencies, including the mortality, expenses and other risks which the insurer will bear under the policy. 211 CMR 95.06(2)
- ___ A policy may provide for general account preliminary term insurance. For any such policy, the premium rate for such preliminary term insurance must be stated separately in the application or receipt. 211 CMR 95.07(2)
- ___ The policy benefits must reflect the investment experience of one or more separate accounts established and maintained by the insurer. The insurer must demonstrate that the reflection of investment experience in the variable insurance policy is actuarially sound. 211 CMR 95.07(4)
- ___ Each variable life insurance policy must be credited with the full amount of the net investment return applied to the benefit base. 211 CMR 95.07(5)
- ___ Notwithstanding the actual reserve basis used for policies that do not meet standard underwriting requirements, the benefit base for such policies may be the same as for corresponding policies which do meet standard underwriting requirements. 211 CMR 95.07(6)
- ___ Any changes in variable death benefits of each variable life insurance policy must be determined at least annually. 211 CMR 95.07(7)
- ___ The cash value and cash surrender value of each variable life insurance policy must be determined at least monthly. 211 CMR 95.07(8)

- ___ A summary of the method of computation of cash values and other nonforfeiture benefits must be described in the policy. *211 CMR 95.07(8)*
- ___ A complete statement of the method of computation must be filed. Such method shall be in accordance with the actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the policy at all times from the date of issue should be equal to the assumed investment rate with premiums and benefits determined accordingly under the terms of the policy, then the resulting cash values and other nonforfeiture benefits must be at least equal to the minimum values required by M.G.L. c. 175, § 144 for a general account policy with such premiums and benefits. The assumed investment rate shall not exceed the maximum interest rate permitted under M.G.L. c. 175, § 144. If the policy does not contain an assumed investment rate, the method of computation may be any other method approved by the Commissioner. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, but are not to be limited to, a guarantee that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the policy at all times from the date of issue had been equal to the assumed investment rate.
- ___ The computation of values required for each variable life insurance policy may be based upon such reasonable and necessary approximations as are acceptable to the Commissioner. *211 CMR 95.07(8)*

Group Variable Life Mandatory Provisions

The policy **must** contain all of the following provisions, in terms more favorable to the employee, or at least as favorable to the employee and more favorable to the employer:

- ☐ That the policy will be incontestable after two years from its date of issue except for non-payment of premiums. *M.G.L. c. 175, § 134, 1.*
- ☐ That the insurance on any person insured under the policy will be incontestable after it has been in force for a period of two years during such person's lifetime except for violation of the conditions of the policy relating to military or naval service in time of war. *M.G.L. c. 175, § 134, 1.*
- ☐ That the policy, the application of the employer and the individual applications, if any, of the employees insured shall constitute the entire contract between the parties, and that no statement made by the employer or any employee or on their behalf shall be used in defense to a claim under the policy unless contained in a written application. *M.G.L. c. 175, § 134, 2.*
- ☐ That the premium or the amount of insurance payable in the event of a misstatement of the age of an employee will be equitably adjusted. *M.G.L. c. 175, § 134, 3.*
- ☐ That to the group or class thereof originally insured shall be added from time to time all new employees of the employer eligible to insurance in such group or class. *M.G.L. c. 175, § 134, 5.*
- ☐ That the employer is entitled to a grace period of thirty-one days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the employer shall have given the company written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy and, at the option of the company, a provision that the employer shall be liable to the company for the payment of a pro rata premium for the time the policy was in force during such grace period. *M.G.L. c. 175, § 134, 6.*

Is the group described in clause (c) or (f) of § 133 (credit life or a charitable organization)?

☐ yes ☐ no

If yes, the next two items do **not** apply:

- ☐ That the company will issue to the employer, for delivery to each employee whose life is insured under the policy, an individual certificate specifying his insurance coverage under the policy, the amount thereof and to whom payable, together with a provision to the effect that if his insurance, or any portion of it, ceases because of (1) termination of employment or of membership in the class or classes eligible for coverage under the policy, or (2) termination of the policy or amendment of the policy to terminate the insurance or any part thereof on the class of insured persons to which he then belongs after he has been insured thereunder for five or more years immediately preceding any such termination date, the employee shall continue to be insured thereafter for a period of thirty-one days, for the amount of life insurance which he is entitled to have issued to him under an individual policy in accordance with the provisions which follow; and that he shall be entitled to have issued to him by the company, without evidence of insurability, upon written application in a form satisfactory to the company and upon the payment of the premium applicable to the class of risk to which he belongs and to the form and amount of the policy at his then attained age, both within said period of thirty-one days, an individual policy of life insurance without disability or other supplementary benefits,

effective at the expiration of said period, in any one of the forms of life policies then customarily issued by the company, except a term policy, for an amount not in excess of the amount of the insurance which ceases because of any such termination, or, at the option of the company, in the case of any termination described in clause (2), an amount which shall in no event exceed the lesser of (i) the amount of such employee's insurance ceasing because of such a termination less any amount of life insurance for which he may be or may become eligible under any group policy issued by the same or another company within thirty-one days after such a termination and (ii) two thousand dollars; provided, that any amount of insurance which shall have matured on or before the date of any termination described in clause (1) or (2), as an endowment payable to him, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of any such termination; and, for the purposes of this provision, the date of termination of the policy in case of its expiration by its own terms shall be the effective date of such expiration irrespective of any grace period specified in the policy for the payment of any premium falling due on such date. *M.G.L. c. 175, § 134, 4.*

— **But note:** Notwithstanding this requirement, only one certificate need be issued for delivery to an insured person if a statement concerning any dependents' coverage is included in such certificate. *M.G.L. c. 175, §133*

— Upon termination of the insurance with respect to the spouse of any employee by reason of the employee's termination of employment or death, the spouse insured pursuant to this section shall have the same conversion rights as to the insurance on his or her life as is provided for the employee. *M.G.L. c. 175, §133*

— That any sum becoming due by reason of the death of the employee insured shall be payable to the beneficiary designated by the employee insured, that in the event no designated beneficiary as to all or any part of such sum is living at the death of the employee insured, any such sum shall be paid to the executors or administrators of the employee, and, that the company may, at its option, pay such sum to any one or more of the following surviving relatives: wife, husband, mother, father, child or children, brothers or sisters, and may pay a part of such sum not exceeding two hundred and fifty dollars to any person appearing to the company to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the employee insured. *M.G.L. c. 175, § 134, 7.*

— In the case of a policy issued to a creditor to insure debtors of such creditor, a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a form which will contain a statement that the life of the debtor is insured under the policy or in the case of a policy issued to an insurance company to insure persons granted policy loans, a provision that the policyholder will deliver to each person insured under the policy a form which will contain a statement that the life of the person granted the loan is insured, and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish the indebtedness or policy loan. *M.G.L. c. 175, § 134, 4A.*

— That if any individual insured under a group policy becomes entitled to convert to another type of life insurance within a specified time after the happening of an event, the certificate holder will be notified of the privilege and its duration within 15 days of the event. *M.G.L. c. 175, § 134A*

- ___ If the notice is given more than 15 days but less than 90 days after the event, the time allowed for the exercise of the conversion privilege will be extended for 15 days after the giving of the notice. *M.G.L. c. 175, § 134A*
- ___ If the notice is not given within 90 days of the event, the time allowed for the exercise of the conversion privilege will expire at the end of 90 days. *M.G.L. c. 175, § 134A*
- ___ A provision that states that any equity of the insured in a group life insurance policy at the time of default in the payment of a premium, whether that equity exists by reason of the terms of the policy or by law, will be applied to purchase extended or paid-up insurance for each of the insured at attained age on the basis of the mortality table and rate of interest used in computing the premium for the group. *M.G.L. c. 175, § 136*
- ___ The policy may contain a provision that permits a person whose life is insured under a group policy to assign any or all incidents of ownership including but not limited to any right to designate a beneficiary, to convert to an individual policy or to pay premiums. *M.G.L. c. 175, § 134C*

The policy must contain all of the following:

- ___ A complete description of all charges to be made under the policy, including front end loads, back end loads and surrender charges, containing the following information:
 - ___ All charges must be identified by their purpose, including, but not limited to identification by kind of administrative charge, cost of insurance or other charge. *211 CMR 95.08(2)(a)*
 - ___ All charges must be clearly described together in one section of the policy. *211 CMR 95.08(2)(b)*
 - ___ The description must specify guaranteed maximum charges (in dollar amounts or proportions) for each type of charge and the time period covered by such charge. *211 CMR 95.08(2)(c)*
 - ___ The maximum cost of insurance charges must be stated separately in the policy from any other charges made under the policy. *211 CMR 95.08(2)(d)*
 - ___ Premiums or charges for incidental insurance benefits must be stated separately. *211 CMR 95.08(2)(e)*
 - ___ The sources of payment for each type of charge must be clearly explained. *211 CMR 95.08(2)(f)*
- ___ A disclosure of the policyholder's risk classification. *211 CMR 95.08(3)*
- ___ A full description of the benefit base and of the method of calculation and application of any factors used to adjust variable benefits under the policy. *211 CMR 95.08(7)*
- ___ A provision designating any separate account to be used and stating with respect to each such account that:
 - ___ the assets of the separate account will be available to cover the liabilities of the general account of the insurer only to the extent that the assets of the separate account exceed the liabilities of the separate account arising under the variable life insurance policies supported by the separate account. *211 CMR 95.08(8)(a)*
 - ___ the separate account will be used only to fund variable policy benefits, and such other benefits, as applicable, flowing from a variable life insurance policy, which may be permitted by 211 CMR 95.00. *211 CMR 95.08(8)(b)*
 - ___ the assets of the separate account will be valued at least as often as any policy benefits vary but at least monthly. *211 CMR 95.08(8)(c)*

- ___ If the policy is in force and does not provide for a fixed investment option, a provision that at any time during the first 24 policy months, so long as the policy is in force, the owner may exchange the policy without evidence of insurability for a policy of permanent general account life insurance on the life of the insured for the same amount of insurance as the initial face amount of the variable life insurance policy, and on a plan of insurance specified in the policy, subject to the following requirements:
 - ___ the new policy must bear the same date of issue and the issue age as the variable life insurance policy. *211 CMR 95.08(9)(a)*
 - ___ the new policy must be issued on a substantially comparable plan of permanent insurance offered in Massachusetts by the insurer (or if not available from the insurer, by a subsidiary of the insurer, its parent or an affiliate licensed to do a life insurance business in Massachusetts) with the same date of issue of the variable life insurance policy and at the premium rates in effect on that date for the same class of risk. *211 CMR 95.08(9)(b)*
 - ___ the new policy must include such incidental insurance benefits as were included in the variable life insurance policy if such incidental insurance benefits were then available for issue with the new policy. *211 CMR 95.08(9)(c)*
 - ___ the exchange must be subject to an equitable premium or cash value adjustment that takes appropriate account of the premiums and cash values under the original and new policies. A detailed statement of the method of computing that adjustment must be filed with the Division. *211 CMR 95.08(9)(d)*
- ___ A provision that:
 - ___ if the policy is in force other than under a fixed nonforfeiture benefit or if the policy is being continued under a variable nonforfeiture benefit payment of variable death benefits in excess of any minimum death benefits, net cash surrender values, policy loans or partial withdrawals (except when used to pay premiums), or partial surrenders may be deferred for any period during which the New York Stock Exchange is closed for trading (except for normal holiday closing) or when the Securities and Exchange Commission had determined that a state of emergency exists which may make such payment impractical. *211 CMR 95.08(10)(a)*
 - ___ if the policy is being continued under a fixed nonforfeiture benefit, or to the extent benefits are being paid from the general account, payment of any net cash surrender value or loan may be deferred for up to six months from the date of request or as otherwise may be permitted by law or regulation, however no deferral shall be made without reasonable grounds therefor. *211 CMR 95.08(10)(b)*
- ___ The policy must contain a provision for policy loans after the policy has been in force for three years which is not less favorable to the policyholder than the following:
 - ___ the loan value available must be at least equal to 75% of the policy's cash surrender value. *211 CMR 95.08(12)(a)*
 - ___ the amount borrowed must bear interest at a rate stated in or determined by the terms of the policy not to exceed the rate permitted by state insurance law. *211 CMR 95.08(12)(b)*
 - ___ any indebtedness must be deducted from the proceeds payable on death. *211 CMR 95.08(12)(c)*
 - ___ any indebtedness must be deducted from the cash surrender value upon surrender or in determining any nonforfeiture benefit. *211 CMR 95.08(12)(d)*
 - ___ for scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer must give notice of intent to cancel the policy if the

- excess indebtedness is not repaid within 31 days after the date of mailing of such notice. *211 CMR 95.08(12)(e)*
- ___ for flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next following policy processing day exceed, unless otherwise provided in the policy, the net cash surrender value under the policy to pay such charges, a report must be sent to the policyholder containing the information specified by 211 CMR 95.13(1)(c). *211 CMR 95.08(12)(e)*
- ___ all policy loan, partial withdrawal, and partial surrender provisions must be so constructed that variable life insurance policyholders who have not exercised such provision are not disadvantaged by the exercise thereof. *211 CMR 95.08(12)(g)*
- ___ amounts paid to the policyholders upon the exercise of any policy loan, partial withdrawal, or partial surrender provision must be withdrawn from the separate account and must be returned to the separate account upon repayment except that a stock insurer may provide the amounts for policy loans from the general account. *211 CMR 95.08(12)(h)*

Note: no policy loan provision is required if the policy is under the extended insurance nonforfeiture option 211 CMR 95.08(12)(f)

- ___ In the event the proceeds of the policy are payable in fixed installments or as a fixed annuity, the policy must contain a table showing the amounts of the installments or annuity payments. *211 CMR 95.08(13)*
- ___ A provision that in the event of a material change in the investment policy of a separate account:
 - ___ any policyholder objecting to such change will have, without evidence of insurability, the conversion options available under 211 CMR 95.04(4) *211 CMR 95.08(14)*
 - ___ that the insurer will give appropriate notice to such objecting policyholder of the options available *211 CMR 95.08(14)*
 - ___ that the option to convert is exercisable within 60 days after:
 - (a) the effective date of such change in the investment policy; or
 - (b) the receipt of the notice of the options available, whichever is later. *211 CMR 95.08(14)*
- ___ A provision that the policy will be incontestable by the insurer after it has been in force for two years during the lifetime of the insured, provided, however, that any increase in the amount of the policy's death benefits subsequent to the policy issue date, which increase occurred upon a new application or request of the owner and was subject to satisfactory proof of the insured's insurability, will be incontestable after any such increase has been in force, during the lifetime of the insured, for two years from the effective date of such increase. *211 CMR 95.08(15)*
- ___ A description of how loans are charged against separate accounts and the effect on these accounts when a loan is made or repaid. *211 CMR 95.08(16)*
- ___ A provision for credit on loaned amounts at a rate at least equal to the loan interest rate less 2% unless the Commissioner allows crediting of a lower rate of interest upon an insurer demonstrating a justification for such lower rate. *211 CMR 95.08(17)*
- ___ If the policy provides settlement options, at least one such option must be provided on a fixed basis only. *211 CMR 95.08(19)*

- ___ A description of the basis for computing the cash value and the cash surrender value under the policy. *211 CMR 95.08(20)*
- ___ Specification of a guaranteed minimum rate of interest for the portion of the fund accumulated in a fixed investment option. *211 CMR 95.08(21)*
- ___ Is this a scheduled premium policy?
 - ___ yes ___ no
 - If yes, the policy must:
 - contain a provision for a grace period of not less than 31 days from the premium due date which must provide:
 - ___ that where the premium is paid within the grace period, policy values will be the same as if the premium had been paid on or before the due date; *211 CMR 95.08(4)(a)* and
 - ___ that where the insured dies during the grace period without having paid the premium, the policy benefits will be the same as if the premium had been paid on or before the due date, except for the deduction of the overdue premium. *211 CMR 95.08(4)(b)*
- ___ contain a provision that the policy will be reinstated at any time within three years from the date of default upon evidence of insurability, unless the net cash surrender value has been paid or the period of extended insurance has expired, upon the payment of any outstanding indebtedness arising subsequent to the end of the grace period following the date of default together with the accrued interest thereon to the date of reinstatement and the payment of an amount not exceeding the greater of (a) or (b), plus (c):
 - (a) all overdue premiums (other than for incidental insurance benefits) and any other indebtedness in effect at the end of the grace period following the date of default with interest at a rate stated in the policy not exceeding that permitted by law; or
 - (b) 110% of the increase in cash value resulting from reinstatement;
 - (c) all overdue premiums for incidental insurance benefits with interest at a rate stated in the policy not exceeding that permitted by law. *211 CMR 95.08(6)*
- ___ contain a provision for nonforfeiture insurance benefits so that at least one such benefit is offered on a fixed basis from the due date of the premium in default; however, a given nonforfeiture option need not be offered on both a fixed and a variable basis. *211 CMR 95.08(11)*
- ___ contain a summary of the method of computing the cash value and net cash surrender value under the policy, including a description of the basis and the interest assumption. *211 CMR 95.08(11)*
 - ___ Any surrender charges must be shown in a table in the policy, as well as described in the policy together with the other charges to be deducted as required by *211 CMR 95.05* and *95.08*. *211 CMR 95.08(11)*
 - ___ The insurer may establish a reasonable minimum net cash surrender value below which any nonforfeiture insurance options will not be available, but the policyholder must have the right to receive a lump sum cash payment. *211 CMR 95.08(11)*
 - ___ A minimum death benefit must be provided in an amount at least equal to the initial face amount of the policy so long as premiums are duly paid and subject to

— For scheduled premium policies which permit the insurer to adjust premiums, the policy must contain a provision stating the frequency with which premiums will be reviewed to determine whether an adjustment should be made. *211 CMR 95.08(18)*

___ yes ___ no

The filing must also contain:

— The explanation must, in non-technical terms, describe the principal features of the policy, including a description of the manner in which the variable benefits will reflect the investment experience of the separate account and the factors which affect such variation. Such explanation must include a notice of the provisions required by 211 CMR 95.08(1)(g) and 95.08(9). *211 CMR 95.11(1)(a)*

— A prominent statement that the premium is flexible or fixed, and that the amount or duration of the death benefit may be variable or fixed under specified conditions and may increase or decrease. *211 CMR 95.11(1)(a)1*.

— A prominent statement that cash values may increase or decrease in accordance with the experience of the separate account (subject to any specified minimum guarantees). *211 CMR 95.11(1)(a)3.*

- ___ A prominent statement that in the case of a variable endowment policy the amount of the endowment payable at maturity is not guaranteed but is dependent upon then cash value at maturity (subject to any specified minimum guarantees). *211 CMR 95.11(1)(a)4.*
- ___ For flexible premium policies which do not have a guaranteed death benefit until the maturity date of the policy, a prominent statement explaining that the applicant could lose his or her entire investment, depending on the performance of the fund, and that as a result there could be no death benefit absent additional payments made to keep the policy in force. *211 CMR 95.11(1)(a)5.*
- ___ A statement of the investment policy of the separate account including:
 - ___ a description of the investment objectives intended for the separate account and the principal types of investments intended to be made. *211 CMR 95.11(1)(b)1.*
 - ___ a notice that a statement describing any restrictions or limitations on such investments or on the manner in which the operations of the separate account are intended to be conducted is available upon request. *211 CMR 95.11(1)(b)2.*
- ___ A statement of the net investment return of the separate account for each of the last ten years or such lesser period as the separate account has been in existence. *211 CMR 95.11(1)(c)*
- ___ A statement of the annual charges, each of the items expressed as a dollar amount or as an annual percentage, levied against the separate account during the previous year, or to the extent to which they are ascertainable or may be reasonably estimated, of all charges which may be levied against the separate account in the coming year in comparable detail to that provided in accordance with the requirements of 211 CMR 95.05. *211 CMR 95.11(1)(d)*
- ___ A statement of all front end loads, back end loads, surrender charges and other charges which may be made under the policy in comparable detail to that provided in accordance with the requirements of 211 CMR 95.08. *211 CMR 95.11(1)(e)*
- ___ A summary of the method to be used in valuing assets held by the separate account. *211 CMR 95.11(1)(f)*
- ___ A summary of the federal income tax aspects of the policy applicable to the insured, the policyowner, and the beneficiary. *211 CMR 95.11(1)(g)*
 - ___ This summary must also include a statement to the effect that federal and state tax laws can change from time to time without notice and, as a result, the taxable consequences to the insured, policyowner or beneficiary may be altered. *211 CMR 95.11(1)(g)*
- ___ A statement describing how the actuarially determined costs of insurance (tabular costs) are charged. *211 CMR 95.11(1)(h)*
- ___ Illustrations of benefits payable under the variable life insurance contract. *211 CMR 95.11(1)(i)*
- ___ All such illustrations must be prepared by the insurer and may not include projections of past investment experience into the future or attempt predictions of future investment experience. *Note:* an insurer may, however, use hypothetical assumed rates of return to illustrate possible levels of benefits if it is made clear that such assumed rates are hypothetical only, and are not predictions of actual future performance, and as long as one

- of the hypothetical assumed rates is zero percent and assumes maximum guaranteed mortality and expense charges. *211 CMR 95.11(1)(i)*
- ___ At least one set of illustrations provided to the applicant must disclose all charges that would be levied against the contract, with a clear explanation of the nature and amount or those charges. *211 CMR 95.11(1)(i)*
 - ___ Illustrations may not be misleading, inadequate, or incorrect. *211 CMR 95.11(1)(i)*
 - ___ Any statement that a policy will be paid up or will require no cash outlay after a given time period must be in writing, and must clearly specify in detail all assumptions on which the statement is based. *211 CMR 95.11(1)(j)*
 - ___ Any additional information concerning the variable life insurance operations or the variable life insurance separate accounts as deemed necessary by the Division. *211 CMR 95.11(1)(k)*
 - ___ The insurer must obtain from each applicant a signed and dated acknowledgment of receipt for the information described above. *211 CMR 95.11(2)*
 - ___ The requirements for the summary above will be deemed to have been satisfied to the extent that information required by 211 CMR 95.11(1) is delivered in either of the following forms:
 - ___ a prospectus included in a registration statement that satisfies the requirements of the Federal Securities Act of 1933 and has been declared effective by the Securities and Exchange Commission.
 - ___ if the policies are exempted from the registration requirements of the Securities Act of 1933 pursuant to section 3(a)(2) thereof, all information and reports required by the Employee Retirement Income Security Act of 1974, as amended (ERISA).
 - ___ Any disclosures not found in a prospectus or report documents must be provided to the applicant on a sticker attached to the prospectus or report or on a supplemental disclosure page. This form must be filed for approval. To the extent that an insurer relies upon the prospectus or ERISA reports to provide information required by 211 CMR 95.11(1), the insurer must file a certification by a company official as to which provisions of 211 CMR 95.11 are being complied with thereby. This filing must accompany the filing of the policy form and supplemental disclosure page or sticker. *211 CMR 95.11(3)(b)*
 - ___ The above policy summary may not be false, misleading, deceptive, or inaccurate in any material respect. *211 CMR 95.11(5)*
 - ___ The insurer must clearly disclose in writing, at the time of solicitation or contemporaneously with delivery of the policy, all charges that may be made against the separate account. *211 CMR 95.05(1)*
 - ___ The insurer may deduct only the following from the separate account:
 - ___ taxes or reserves for taxes attributable to investment gains and income of the separate account as required by applicable state or federal law. *211 CMR 95.05(2)(a)*
 - ___ actual cost of reasonable brokerage fees and similar reasonable direct acquisition and sales costs incurred in the purchase or sale of separate account assets. *211 CMR 95.05(2)(b)*
 - ___ actuarially determined mortality costs of insurance (tabular costs) and the release of separate account liabilities. *211 CMR 95.05(2)(c)*
 - ___ reasonable charges for administrative expenses and investment management expenses, including internal costs attributable to the investment management of assets of the separate account. *211 CMR 95.05(2)(d)*

- ___ a reasonable charge, at a rate specified in the policy, for mortality and expense guarantees. *211 CMR 95.05(2)(e)*
 - ___ any amounts in excess of those required to be held in the separate account. *211 CMR 95.05(2)(f)*
 - ___ charges for incidental insurance benefits. *211 CMR 95.05(2)(g)*
 - ___ any other type of charge that the Commissioner has determined to be fair and reasonable. *211 CMR 95.05(2)(h)*
 - ___ The description of charges made against the separate account must contain the following information:
 - ___ all charges must be identified by their purpose, including, but not limited to, identification by kind of administrative charge, investment management charge, cost of insurance or other charge. *211 CMR 95.05(3)(a)*
 - ___ all charges must be clearly described together. *211 CMR 95.05(3)(b)*
 - ___ the description must specify guaranteed maximum charges (in dollar amounts or proportions) for each type of charge and the time period covered by the charge. *211 CMR 95.05(3)(c)*
 - ___ The application materials or the policy must contain a provision that advises policyholders that the insurer will provide the following reports:
 - ___ Within 60 days after each anniversary of the policy, a report of the cash surrender value, cash value, death benefit, any partial withdrawal, partial surrender or policy loan, any interest charge, and any optional payments allowed pursuant to 211 CMR 95.08 under the policy, computed as of the policy anniversary date; note, however, that this statement may be furnished within 30 days after a specified date in each policy year so long as the information contained therein is computed as of a date of not more than 60 days prior to the mailing of such notice. *211 CMR 95.13(1)(a)*
- For all variable life insurance products:
- ___ The policyholder must be advised that the report will state that in accordance with the investment experience of the separate account, the cash values and the variable death benefit may increase or decrease, and will prominently identify any value described therein which may be recomputed prior to the next statement required by this subsection. If the policy guarantees that the variable death benefit on the next policy anniversary date will not be less than the variable death benefit specified in such statement the statement will be modified to so indicate. *211 CMR 95.13(1)(a)1.*
- For flexible premium policies:
- ___ The policyholder must be advised that the report will contain a reconciliation of the change since the previous report in cash value and cash surrender value, if different, because of payments made (less deductions for expense charges), withdrawals, investment experience, insurance charges and any other charges made against the cash value. Reports for flexible premium policies must also show the projected cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming that:
 - a. planned periodic premiums, if any, are paid as scheduled;
 - b. guaranteed costs of insurance are deducted; and
 - c. the net return is equal to the guaranteed rate or, in the absence of a guaranteed rate, is not greater than zero. If the projected value is less than zero, a warning message will be included that states that the policy may be in danger of terminating without

value in the next 12 months unless additional premium is paid. *211 CMR 95.13(1)(a)2.*

- An annual report that includes the following:
 1. a summary of the financial statement of each separate account, based on the annual statement last filed with the Commissioner;
 2. the net investment return of the separate account for the last year and, for each year after the first, a comparison of the investment rate of the separate account during the last year with the investment rate during prior years, up to a total of not less than five years when available;
 3. a list of investments held by the separate account as of a date not earlier than the end of the last year for which an annual statement was filed with the Commissioner;
 4. all annual charges, each of the items expressed as a dollar amount or as an annual percentage, levied against the separate account during the previous year;
 5. a statement of any change, since the last report, in the investment objectives of the separate account, in any investment restriction or material quantitative or qualitative investment requirement applicable to the separate account, or in the investment adviser of the separate account; and
 6. such further information as the Commissioner may require. *211 CMR 95.13(1)(b)*
- For flexible premium policies, if the amounts available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next following policy processing day, a report indicating the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment of such amount. The report must be mailed no later than and within 30 days after the policy processing day on which the insurer determined that an insufficiency had occurred. *211 CMR 95.13(1)(c)*
- Such additional reports concerning the variable life insurance operations of the variable life insurance separate accounts as the Commissioner shall deem appropriate. *211 CMR 95.13(1)(d)*

Note: Specimen copies of reports distributed to policyholders in accordance with 211 CMR 95.13 must be maintained by the insurer and must be available to the Commissioner upon his or her request. If any material distributed to policyholders is found to be false, misleading, deceptive, or inaccurate in any material respect, the Commissioner may require the distribution of amended material.

Prohibitions

General Prohibitions

Prohibitions under M.G.L. c. 175, § 22: No policy of insurance or annuity may contain any condition, stipulation or agreement:

- ___ Depriving the courts of the commonwealth of jurisdiction of actions against it;
- ___ Limiting the time for commencing actions against it to a period of less than two years from the time when the cause of action accrues;
- ___ Making any person appointed and licensed as its agent the agent of the applicant, insured, policyholder or contract holder for any purpose;
- ___ Providing that no person shall be deemed an agent of the company unless authorized by the company in writing;
- ___ Providing that any policy or contract made in the commonwealth on lives, property or interests therein shall be governed by the laws of any other state or country.

- ___ Policies may not include a requirement that all disputes or controversies be resolved by binding arbitration. But note that any provision that says the parties *may* agree to mediation or arbitration is permissible. The prohibition is based on the requirement that applicants waive their legal rights, or the rights of beneficiaries, set forth in M.G.L. c. 93A, § 9.

- ___ Policies may not include a limitation or exclusion on the recovery of punitive damages in the event of a dispute or controversy. *Such a limitation would be inconsistent with rights granted under M.G.L. c. 93A.*

- ___ Policies that include a provision that grants the right of the company to require an autopsy must provide flexibility that recognizes the religious practices or beliefs of the policyholder or beneficiary. *M.G.L. c. 176D*

Anti-discrimination provisions

- ___ No company shall refuse to issue a policy or limit the coverage normally contained therein with respect to the risk of loss solely because of the sex of the insured. *M.G.L. c. 175, § 24A*
- ___ No life company shall make or permit any distinction or discrimination in favor of individuals between insureds of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or annuity or pure endowment contracts, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes. *M.G.L. c. 175, § 120*
- ___ No insurer shall cancel, refuse to issue or renew, charge any excessive rates or restrict any length of coverage or in any way practice discrimination against persons primarily because the insured person has had a suspected, alleged or confirmed exposure to the potential hazards and afflictions of DES. This includes practices and devices which are fair in form but discriminatory in practice. *M.G.L. c. 175, § 120C*
- ___ There may be no distinction or discrimination in the amount or payment of premiums or rates charged, in the length of coverage, or in any other of the terms and conditions of a policy of

life insurance based on information that the person covered has been the victim of domestic abuse. *M.G.L. c. 175, § 120D*

— No company may discriminate against persons of color in rates or benefits. *M.G.L. c. 175, § 122*

Optional Provisions

Optional conversion, alteration, or exchange of policies or contracts:

The following provisions may in substance be included (*i.e.* the policy does not have to have these provision; however, if included, they must be substantially similar to the following):

- ☐ Any life company may, at the request of the holder, exchange, alter or convert any policy of life or endowment insurance, or annuity issued by it, or a company that is admitted and authorized under chapter 175 and is an affiliate of it, as defined in section 206, hereinafter called the original policy, for or into any policy of life or endowment insurance, hereinafter called the rewritten policy, as of the date of the most recently issued original policy or as of the current date, or as of any intermediate date, conforming with the laws in force as of the date of issue which the rewritten policy bears; provided, that:
- ☐ if the rewritten policy bears a date prior to the date of application for exchange, alteration or conversion, the amount of insurance under the rewritten policy may not exceed the greater of (a) the amount of insurance under the original policy or policies if of life or endowment insurance, or (b) the amount of insurance which the premium paid for the original policy or policies would have purchased if the rewritten policy had been originally issued as of the date of issue it bears. Nothing in section 120 shall be construed to prohibit the exchange, alteration or conversion of a policy of life or endowment insurance or annuity under this section, and sections 123 and 130 shall not apply to a rewritten policy issued under the authority of this section. Nothing in section 131 or section 132 shall be construed to prohibit making the application for the original policy, if one of life or endowment insurance, or the application for the rewritten policy issued under authority of this section, or both such applications, a part of the rewritten policy, by endorsing thereon or attaching thereto a copy of either or both such applications. Nothing in said section one hundred and thirty-two shall be construed to prohibit the incorporation, by a rider or endorsement or otherwise, in a rewritten policy issued under authority of this section and bearing a then current date or an intermediate date of a stipulation making the incontestable provision required by said section 132 operative from the date of issue of the most recently issued original policy, if one of life or endowment insurance. *M.G.L. c. 175, § 139*

Participating policies

- ☐ Is this a participating policy?
- ☐ yes ☐ no
- ☐ If yes, the policy must provide that the proportion of the divisible surplus of the company contributed by said policy shall be ascertained and distributed annually, and not otherwise, except as hereinafter provided, beginning not later than the end of the third policy year; but such distribution shall not be made contingent upon the payment of any further premium except that if dividends are allowed on an anniversary of the policy preceding the third, such dividends may be made subject to the payment of the succeeding year's premium. Every such company shall on December thirty-first of each year or as soon thereafter as practicable, after providing from the funds attributable to its participating business for the reserve required by sections nine and eleven and all other liabilities attributable to such business, including dividends declared upon the capital

stock, if any, and such sums as may be held on account of existing deferred dividend policies, and providing also for a contingency reserve not in excess of the limit prescribed in the following section, apportion its remaining funds attributable to such business upon the contribution to surplus plan, as dividends, to all other policies entitled to share therein.

- ___ Each such dividend shall annually, at the option of the holder of the policy,
 - ___ (a) be payable in cash, or
 - ___ (b) applied in reduction of premiums, or
 - ___ (c) to the purchase of a paid-up addition, or
 - ___ (d) be left with the company to accumulate to the credit of the policy and be payable at the maturity thereof, or be withdrawable in cash on demand by the holder of the policy, or applied as herein after set forth;
- ___ But if no election is made by the holder of the policy prior to any anniversary thereof, the dividend for that anniversary shall be applied under option (c) or held under option (d), whichever option is designated by the terms of the policy; and if any premium on the policy is not paid at the expiration of the days of grace and dividends have been applied under option (c) or held under option (d), the company may keep the policy in force by applying the cash value of any paid-up additions or any dividend accumulations to the payment due on the policy if the cash value of such additions or the amount of such accumulations is sufficient to make said payment in full, and shall forthwith mail a notice to the holder thereof at his last known address, stating the amount of such cash values or of such accumulations which have been so applied, and the amount, if any, of paid-up additions and the cash value thereof remaining or, in the case of dividend accumulations the balance, if any, remaining to the credit of the policy; notwithstanding anything herein provided, the share of the surplus so apportioned to a term policy shall not be available for the purchase of a paid-up addition, and nothing herein contained shall operate to continue a policy in force beyond the period which the cash value of any paid-up addition or any dividend accumulation so applied would carry the policy under its full premium rate, nor beyond the term for which the policy was originally issued, and that the affidavit of any officer, clerk or agent of the company, or of any one authorized to mail such notice, that the notice required by this section has been duly mailed by the company, shall be prima facie evidence that such notice was duly given. *M.G.L. c. 175, §140*

Note: The above does not apply to contracts on a variable basis, pure endowment contracts nor to any domestic stock life company issuing only nonparticipating policies. A foreign life company which does not provide in every participating policy hereafter issued or delivered in the commonwealth that the proportion of the surplus accruing upon said policy shall be ascertained and distributed annually and not otherwise, except as hereinafter provided, either by payment in cash of the amount apportioned to a policy, or by its application to the payment of premiums or to the purchase of paid-up additions, or for the accumulation of the amounts from time to time apportioned, said accumulations to be subject to withdrawal by the policyholder, shall not be permitted to do new business within the commonwealth. *M.G.L. c. 175, §140*

Nothing in the above (*M.G.L. c. 175, §140*) shall be construed to prohibit the payment upon or after the death of the insured of a dividend for the current policy year.

Policy loan interest rates

___ Does the policy provide for policy loans?

___ yes ___ no

If yes, then the following section applies:

Note: This section does not apply to term policies nor to those in force as extended term insurance nor to industrial life insurance policies nor to life insurance policies or contracts which are contracts on a variable basis. *M.G.L. c. 175, §142(13)*

___ For the purpose of this section, "Published monthly average" shall mean: (a) the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc. or any successor thereto; or (b), in the event that the monthly average of the composite yield on seasoned corporate bonds is no longer published, a substantially similar average, established by regulations promulgated by the commissioner. *M.G.L. c. 175, §142(1)*

___ If the term is used in the policy, the policy definition must be the same as the above or substantially similar.

For purposes of this section:

___ The rate of interest on policy loans permitted under this section includes the interest rate charged on reinstatement of policy loans for the period during and after any lapse of policy. *M.G.L. c. 175, §142(11)(a)*

___ The term "policy loan" includes any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due. *M.G.L. c. 175, §142(11)(b)*

___ The term "policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer. *M.G.L. c. 175, §142(11)(c)*

___ The term "policy" includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans. *M.G.L. c. 175, §142(11)(d)*

___ For any policy of life insurance issued or delivered in the commonwealth by any life company, the policy must contain a provision:

___ that states that after premiums have been paid for at least three full years, the holder thereof, upon written application therefor to the company at its home office and upon an assignment of the policy to the company, in a form satisfactory to it, shall be entitled to a loan from the company of a sum not exceeding its loan value, on the sole security of the policy. *M.G.L. c. 175, §142(2)*

___ permitting (a), an interest rate on such loan of not more than eight percent per annum; or (b) a provision permitting an adjustable maximum interest rate on such loan established from time to time by the insurer. *M.G.L. c. 175, §142(3)*

___ If the provision for a loan is made under clause (b) above:

___ the rate of interest charged on a policy loan shall not exceed the higher of either:

(a) the published monthly average for the calendar month ending two months before the date on which the rate is determined; or (b) the rate used to compute the

- cash surrender values under the policy during the applicable period plus one percent per annum. *M.G.L. c. 175, §142(4)*
 - ___ the policy must contain a provision setting forth the frequency at which the rate is to be determined for such policy. *M.G.L. c. 175, §142(5)*
- ___ The maximum rate for each policy must be determined at regular intervals at least once every twelve months, but not more frequently than once in any three month period. At the intervals specified in the policy, the rate being charged: (a), may be increased whenever such increase as determined under c. 175, §142(4) would increase the rate by one-half percent or more per annum; and (b), must be reduced whenever such reduction as determined under c. 175§ 142(4) would decrease that rate by one-half percent or more per annum. *M.G.L. c. 175, §142(6)*
- ___ The policy must state that the life insurer shall:
 - ___ notify the policyholder at the time a cash loan is made of the initial rate of interest on the loan;
 - ___ notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan; provided, however, that notice need not be given to the policyholder when a further premium loan is added, except as provided in clause (c);
 - ___ send to policyholders with loans reasonable advance notice of any increase in the rate; and
 - ___ include in the notices required in clauses (a), (b) and (c) the substance of the pertinent provisions of c. 175 §142(3) and (5). *M.G.L. c. 175, §142(7)*
- ___ The policy must state that the loan value will be an amount which, together with interest as aforesaid to the end of the current policy year, shall equal the cash surrender value available at the end of the said policy year under the policy, including the cash surrender value of any existing paid-up additions thereto, if the policy is then free from indebtedness. The company shall deduct from such loan value any existing indebtedness, including accrued interest thereon, and may also deduct any unpaid portion of the premium for the then current policy year. Failure to repay any loan under the policy or to pay interest thereon shall not avoid the policy until the total indebtedness, including accrued interest thereon, is equal to or exceeds the loan value, nor until thirty days after notice has been mailed by the company to the last known address of the holder. The affidavit of any officer, clerk or agent of the company or of any one authorized to mail such notice, that the notice required by this section has been duly mailed by the company, shall be prima facie evidence that such notice was duly given. Nothing in this section shall require any company to make a loan upon any policy for less than twenty-five dollars. *M.G.L. c. 175, §142(8)*
- ___ The policy must state that the life insurer will not terminate a policy in a policy year as the sole result of a change in the interest rate during such policy year, and the life insurer shall maintain coverage during such policy year until the time at which it would otherwise have terminated if there had been no change during such policy year. *M.G.L. c. 175, §142(9)*

___ A provision that the amount of any dividend:

- ___ may be applied to provide paid-up amounts of additional general account or variable life insurance. *211 CMR 95.09(1)(a)*
- ___ may be deposited in the general account at a stated minimum rate of interest allowed by the company. *211 CMR 95.09(1)(b)*
- ___ may be applied to provide paid-up amounts of general account or variable one-year term insurance. *211 CMR 95.09(1)(c)*
- ___ may be paid in cash. *211 CMR 95.09(1)(d)*
- ___ may be applied in reduction of premiums. *211 CMR 95.09(1)(e)*
- ___ may be deposited as a variable deposit in the separate account. *211 CMR 95.09(1)(f)*
- ___ A provision allowing for incidental insurance benefits (see definition of incidental benefits), which may be offered on a fixed or variable basis. *211 CMR 95.09(2)*
- ___ A provision allowing the policyholder to elect in writing in the policy application for the policy or thereafter an automatic premium loan on a basis not less favorable than that required of policy loans, partial withdrawals or partial surrenders, except that payment under this provision is restricted to no more than the premiums required for a period of 12 months absent separate notification to the policyholder. The provision must state that:
 - ___ the notification will be sent by certified mail. *211 CMR 95.09(3)*
 - ___ will inform the policyholder of the duration and amount of the loan. *211 CMR 95.09(3)*
 - ___ will provide a mailing address and local or toll-free telephone number at which the policyholder can advise the insurer of any intention to cancel further automatic premium loans. *211 CMR 95.09(3)*
 - ___ The notification will be sent to the policyholder no less frequently than annually in the event of continuing automatic premium loans, and will be mailed separately from any other notice, information or report mailed to the policyholder by the insurer. *211 CMR 95.09(3)*
- ___ An exclusion for suicide within two years of the issue date of the policy. *211 CMR 95.09(4)*
Note, however, that to the extent of increased death benefits only, the policy may provide an exclusion for suicide within two years of the effective date of any increase in death benefits that results from an application or request of the owner subsequent to the policy issue date, and was subject to satisfactory proof of the insured's insurability. 211 CMR 95.09(4)
- ___ A provision allowing the policyholder to make partial withdrawals. *211 CMR 95.09(5)*
- ___ A provision allowing the policyholder to make partial surrenders. Any such provision must:
 - ___ provide that the policyholder may request part of the net cash surrender value in which case both the variable and minimum death benefits will be reduced commensurate with the percentage of the net cash surrender value received by the policyholder and the premium for the remaining amount of insurance will also be reduced to the appropriate rates for the reduced amount of insurance. *211 CMR 95.09(6)*
 - ___ The policy may provide that a partial surrender provision will not require the insurer to reduce the amount of the minimum death benefit to less than the lowest amount of minimum death benefit which could have been issued to the insured under the insurer's rules at the time the policy was issued. *211 CMR 95.09(6)*
 - ___ The policy must clearly provide that the policyholder has the option of electing to exercise the policy loan or partial withdrawal provision rather than the partial surrender provision. *211 CMR 95.09(6)*

- ___ A provision that if at any time, so long as the policy is in force other than under a nonforfeiture benefit, the variable death benefit is less than it would have been if no loan or withdrawal had ever been made, the policyholder may increase such variable death benefit up to what it would have been if there had been no loan or withdrawal by paying an amount not exceeding 110% of the corresponding increase in cash surrender value and by furnishing such evidence of insurability as the insurer may request. *211 CMR 95.09(7)*
- ___ The policy may specify a reasonable minimum amount which may be borrowed at any time but such minimum shall not apply to any automatic premium loan provision. *211 CMR 95.09(8)*
- ___ Any other policy provision approved by the Commissioner. *211 CMR 95.09(9)*
- ___ Notwithstanding any other provision of law, any domestic life company which establishes one or more separate accounts in connection with contracts on a variable basis may provide to the holders of interests in any such separate account voting rights with respect to the management of such separate account and the investment of assets therein, may establish for such separate account a committee, board or other body the members of which (1) may be elected solely by holders having such voting rights and (2) may or may not be otherwise affiliated with such life company, and may provide for compliance with any applicable state and federal law, in order that contracts on a variable basis may be lawfully sold or offered for sale. *M.G.L. c. 175, § 132G*

